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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/826,997	04/17/2004	Steven Paul Metzler	PG 04-2A	3506

31142 7590 01/26/2005

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EXAMINER

KIM, EUGENE LEE

ART UNIT PAPER NUMBER

3721

DATE MAILED: 01/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

5/1

<b>Office Action Summary</b>	<b>Application No.</b> 10/826,997	<b>Applicant(s)</b> METZLER ET AL.	
	<b>Examiner</b> Eugene L Kim	<b>Art Unit</b> 3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 12-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 12, 13, 15 -19, 22 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Nakamura et al (#4,848,575). Nakamura et al show the method of forming a magnetized article comprising: providing a substrate 14 and securing at least one ferrite material on the portion of the substrate (col 18 lines 38+). Ferromagnetic is defined as relating to or typical of substances, as iron, nickel, cobalt, and various alloys, that exhibit high magnetic permeability. (Webster's II New Riverside University Dictionary 1984). Nakamura et al show the substrate being formed into a container by attaching the substrate 14 onto a container body to form a container as claimed. The non-polarized gaskets are read on the ferromagnetic material that may be coated on the flaps or around the openings (col 18 lines 41+). Nakamura et al disclose that the ferromagnetic powder may be mixed to form a sheet material as well as coating the material on a substrate or a sheet material having magnetism being laminated (col 18 lines 40+). The sheet material having magnetism reads on a magnetic field that is generated before it is secured to a substrate. The coating of material reads on the magnetic field being generated after it is secured to a substrate.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 14 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakamura et al in view of Burrows (#6,217,405). Nakamura et al do not show the ferrite ink means as claimed. Burrows teaches the concept of using ferrite ink (col 4 lines 2) as well as printing means (col 3 lines 58+). Burrows teaches that it is known that material having magnetic properties may be incorporated into a variety of applications including the application of using a magnetic ink to have a preselected printing process (col 2 lines 1+). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide Nakamura et al with ferrite ink as taught by Burrows to print on the substrate with preselected means.


5. Claims 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakamura et al. Nakamura et al do not show specifically disclose the use of securing the ferrite material by adhesive means but does disclose the ferromagnetic material being coated or laminated. The examiner takes official notice that it is well known in the art to use adhesive means for securing as an alternative securing means to coating/laminating.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eugene L Kim whose telephone number is 571 272-4463. The examiner can normally be reached on Tuesday-Friday 8 a.m. to 6 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Eugene L Kim  
Primary Examiner  
Art Unit 3721